

Case 3:12-cr-00047-M  
10-19-12

AO 245B (Rev. 9/11) Judgment in a Criminal Case  
Sheet 1 TXND Rev. 12/11

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FILED

OCT 18 2012

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CLERK, U.S. DISTRICT COURT  
Deputy

UNITED STATES DISTRICT COURT

Northern District of Texas - Dallas Division

UNITED STATES OF AMERICA

V.

GARY D. OSBORN

JUDGMENT IN A CRIMINAL CASE

Case Number: 3:12-CR-047-M (01)

USM Number: 44403-177

Abbe D. Lowell

Defendant's Attorney

THE DEFENDANT:

- ☐ pleaded guilty to count(s) \_\_\_\_\_
- ☒ pleaded guilty to count(s) before a U.S. Counts 1 and 2 of the misdemeanor Information, filed February 10, 2012  
Magistrate Judge, which was accepted  
by the court.
- ☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.
- ☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21 U.S.C. § 331(a)	Introducing a Misbranded Drug into Interstate Commerce	February 7, 2007	1 and 2

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s) \_\_\_\_\_
- ☐ Count(s) \_\_\_\_\_ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

October 3, 2012

Date of Imposition of Judgment

Signature of Judge

BARBARA M. G. LYNN  
UNITED STATES DISTRICT JUDGE

Name and Title of Judge

October 18, 2012

Date

DEFENDANT: **GARY D. OSBORN**  
CASE NUMBER: **3:12-CR-047-M (01)**

### PROBATION

Pursuant to the Sentencing Reform Act of 1984, but taking the Guidelines as advisory pursuant to United States v. Booker, and considering the factors set forth in 18 U.S.C. Section 3553(a), the defendant is hereby sentenced to probation for a term of: **ONE (1) YEAR**. This consists of one (1) year probation on Count 1, and one (1) year probation on Count 2, to run concurrently with each other, for a total probation term of **ONE (1) YEAR**.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: **GARY D. OSBORN**  
CASE NUMBER: **3:12-CR-047-M (01)**

### **SPECIAL CONDITIONS OF SUPERVISION**

The defendant is ordered to immediately pay a fine to the United States in the amount of \$100,000, payable to the U.S. District Clerk, 1100 Commerce Street, Room 1452, Dallas, Texas 75242. The fine shall be paid in five (5) \$10,000 installments for the first 5 months of Probation and on the 6th month, the balance of \$50,000 shall be paid in full. In addition, at least 50 percent of the receipts received from gifts, tax returns, inheritances, bonuses, lawsuit awards, and any other receipt of money shall be paid toward the unpaid balance within 15 days of receipt. This payment plan shall not affect the ability of the United States to immediately collect payment in full through garnishment, the Treasury Offset Program, the Inmate Financial Responsibility Program, the Federal Debt Collection Procedures Act of 1990 or any other means available under federal or state law. If after six months the balance is not paid in full, it is ordered that the defendant pay interest on the unpaid balance, pursuant to 18 U.S.C § 3612(1).

The defendant shall cooperate in the collection of DNA as directed by the U.S. Probation Officer, as authorized by the Justice for All Act of 2004.

The defendant shall notify the Court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessment.

The defendant shall pay any remaining balance of the fine in the amount of \$100,000, as set out in this Judgment.

The defendant shall provide to the U.S. Probation Officer complete access to all business and personal financial information.

The defendant shall allow the Food and Drug Administration (FDA) or the Texas State Board of Pharmacy (TSBP) inspectors immediate access upon entry, without delay, to his compounding pharmacy facility as well as its pharmacy records, patient records, corporate records, licensing records, prescription drugs, drug components, compounding devices or equipment, environmental controls, and training records at any time to conduct an inspection. Furthermore, the defendant is to allow the FDA or TSBP to take samples of the ingredients and the completed compounded products in order to test for potency, sterility, and contaminants.

The defendant shall provide full access to the U.S. Probation Officer of all ongoing business records to include: compounding logs, all analysis of drug products completed by third party facilities which test for sterility and potency, operating reports, financial documents, shipping records, training records, and personnel records.

The defendant shall provide 200 hours of community service under the direction of the U.S. Probation Officer, to be completed within the first 12 months of the defendant's probation term. The defendant may work with his U.S. Probation Office on the method of community service; however, the community service should be pharmaceutical or medical work.

The defendant shall participate in the Location Monitoring Program for a period of 90 consecutive days starting on October 8, 2012. During this time, the defendant is continuously restricted to his place of residence except for authorized absences approved in advance by his U.S. Probation Officer. The U.S. Probation Officer may approve absences for gainful employment, religious services, medical care, education and training programs, and other activities. Location monitoring may be used to monitor compliance with this special condition and may include remote location monitoring using Global Positioning Satellite (GPS) tracking. The defendant shall contribute to the costs of the monitoring services rendered (copayment) at a rate of at least \$3.18 per day, not to exceed the total cost per day of the monitoring services. The defendant may travel for his employment.

DEFENDANT: **GARY D. OSBORN**CASE NUMBER: **3:12-CR-047-M (01)****CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	<b>\$ 50.00 (\$25 per Count)</b>	<b>\$ 100,000</b>	<b>\$</b>

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution), payable to the U.S. District Clerk to be disbursed to the following payee(s) in the amount(s) listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of PayeeRestitution OrderedPriority or Percentage**TOTALS**

\$ \_\_\_\_\_

☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☒ the interest requirement is waived for the ☒ fine ☐ restitution

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

*unless the balance of the fine is not paid within six months. If a balance remains after six months, the defendant shall pay interest on the unpaid balance.*

DEFENDANT: **GARY D. OSBORN**  
CASE NUMBER: **3:12-CR-047-M (01)****SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☐ Lump sum payment of \$ \_\_\_\_\_ due immediately, balance due  
☐ not later than \_\_\_\_\_, or  
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☒ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☒ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:  
**Defendant shall pay a fine of \$100,000, payable to the Clerk, U.S. District Court. Said fine shall be paid at a rate of \$10,000 per month, for five (5) months, with the remaining balance of \$50,000 to be paid in the sixth month. It is ordered that the Defendant shall pay to the United States a special assessment of \$50, for Counts 1 and 2, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.**

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the U.S. District Clerk, 1100 Commerce Street, 14th Floor, Dallas, Texas 75242.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☐ The defendant shall forfeit the defendant's interest in the following property to the United States: See Sheet 6B.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.